

Trial Procedures

Civil Trial to the Court

The Honorable Michael H. Watson
United States District Judge
Southern District of Ohio - Eastern and Western Division

A lawsuit in which you represent a party has been assigned to this Court for trial. These procedures are designed to handle your case promptly and efficiently without impeding your ability to present your client's case fully and fairly. Regardless of the division in which your case was filed, it may be necessary to hold trial in either Columbus, Ohio or Cincinnati, Ohio.

A. Counsel Tables

The parties will occupy the counsel table chosen or agreed to before the opening of the first session of the trial. The parties and all counsel will be present at counsel tables at all sessions before the Court enters, and will remain at counsel tables until after the Court has left the bench.

B. Appearances

Counsel will enter their appearances with the Court Reporter and the Courtroom Deputy before the start of the opening session of the trial. Any attorney not present at the Final Pretrial Conference may not participate at trial.

C. Court Sessions

Under ordinary circumstances, trials will be held on Monday, Tuesday, Wednesday, Thursday and Friday of each week, except that a session may be preempted by the Court's criminal calendar. Additionally, time may be reserved for the Court to conduct Final Pretrial Conferences, motions, and preliminary injunctions.

Morning session begins at 9:00 a.m. and will recess at approximately 10:30 a.m. for fifteen minutes.

Noon recess will be at approximately 12:00 p.m.

Afternoon session begins at 1:30 p.m. and will recess at approximately 3:15 p.m. for fifteen minutes.

Court will adjourn each day at approximately 5:00 p.m.

D. Addresses of Counsel

Counsel will address the Court in the following manner:

- 1) All addresses to the Court will be made from the lectern facing the Court; and
- 2) Counsel shall stand when addressing the Court for any other reason.

E. Examination of Witnesses

Counsel should expect to proceed only with direct examination, cross-examination, and re-direct examination. Only in rare instances will the Court permit re-cross examination, and only where, in the Court's view, the scope of the re-direct exceeds the scope of cross-examination.

Counsel shall conduct their examination from the lectern and will approach the witness to tender an exhibit only after first seeking the permission of the Court. In formulating a question to a witness dealing with an exhibit, counsel shall specify the exhibit number or designation. Counsel will indicate to the Court when he/she has completed the examination of a witness, after which the Court will advise opposing counsel to proceed. During the examination of a witness, counsel will first obtain permission of the Court to confer with co-counsel. Counsel will stand when making an objection, and will address the objection directly and only to the Court.

Any exhibits produced for the first time during trial, shall be properly marked and shown to opposing counsel **BEFORE** posing a question to a witness.

No witness may be included on a witness list if not identified in connection with initial disclosures required under Fed. R. Civ. P. 26 (or reasonably timely supplements thereto), or in response to a discovery request seeking the identity of persons with knowledge regarding the matters at issue (or reasonably timely supplements thereto), unless neither pretrial requirement applies to the action.

No later than 4:00 p.m. on the day before trial, and by the close of court each day thereafter, counsel conducting witness examinations on the following day shall provide opposing counsel with a list of those witnesses he or she anticipates calling, in the order in which they are expected to testify.

F. Exhibits

Counsel will assemble, mark, and place all exhibits in three-ring binders. Four (4) sets

of exhibits are required: one to be used during trial, one for the Court, one for opposing counsel, and one for the law clerk assigned to this case. Each counsel shall deliver three (3) complete sets of the exhibits to the Courtroom Deputy no later than **THREE (3) DAYS** prior to the commencement of trial.¹

All exhibits shall be marked as listed in the proposed Joint Final Pretrial Order, with each exhibit bearing a numbered exhibit sticker and with the same number on a tab extended beyond the binder on the right side thereof. Each page of a multi-page exhibit shall be numbered with a distinctive number (e.g., as applied by a BATES numbering machine). All exhibits will be sequentially numbered with Arabic numerals as follows. Joint exhibits will bear Roman numerals and will be designated JX __ on white exhibit labels. Plaintiff's exhibits will bear Arabic numbers and will be designated PX __ on yellow exhibit labels. Defendant's exhibits will be identified with letters and will be designated DX __ on blue exhibit labels. Third-party exhibits may be numbered with a distinctive identifying letter prefix.

When defendant's exhibits exceed fifty-two (52) in number, defendant shall promptly advise opposing counsel. In such event, both sides will identify exhibits with Arabic numbers and the letter prefix, "P" for plaintiff's, and "D" for defendant's. Counsel are to supply the Court Reporter, Courtroom Deputy, and opposing counsel with a list of exhibits. The parties shall confer so that any given exhibit shall be designated and numbered only once (e.g., "Smith-1" and "Jones-1001" should not be the same document). Joint exhibits are encouraged.

It is not necessary to bring exhibits to the Final Pretrial Conference or to file them with the Court one (1) week before trial. Counsel are required, however, to list all exhibits in the proposed Joint Final Pretrial Order.

Exhibits deposited with the Courtroom Deputy and appropriately marked may be used by any party at trial.

Each party should offer its exhibits into evidence at one time, immediately prior to resting its case, except that an exhibit to be examined by the jury must be offered and admitted prior to examination. The admissibility of all exhibits referred to during trial and offered by the parties, other than those examined by the jury, will be ruled upon by the Court, at the latest, prior to that party's resting. Either side may offer any marked exhibit, regardless of which party marked it.

There is no requirement that counsel object to any exhibit at the Final Pretrial

¹The non-original sets of exhibits may contain Xeroxed or equivalent sets of photographs.

Conference.

Any exhibits produced for the first time during trial, shall be properly marked and shown to opposing counsel **BEFORE** posing a question to a witness. Any deviation from this procedure, in a situation wherein exhibits are unusually voluminous, in which event counsel may wish merely to make his exhibits available for inspection and/or copying by opposing counsel, will be permitted only upon leave of Court being first obtained.

After first seeking the permission of the Court, counsel will approach the witness to tender an exhibit.

G. Demonstrative Evidence

If any sketches, models, diagrams, etc., of any kind will be used during trial or in argument, they must be exhibited to opposing counsel. If any sketches, models, diagrams or other demonstrative evidence of any kind will be used during trial, not later than **FIVE (5) DAYS** before the Final Pretrial Conference. Objections to such evidence must be submitted to the Court no later than noon the Friday preceding trial. Demonstrative evidence prepared solely for the purpose of final argument shall be displayed to opposing counsel at the earliest possible time, but no later than **TWENTY-FOUR (24) HOURS** prior to the commencement of arguments.

H. Court Reporter

Should counsel desire daily transcripts of all or part of the trial testimony, arrangements must be made with the official court reporter,

Cincinnati: Mary Ann Ranz at (513)564-7626
Columbus: Pat Shaw at (614)719-3205,

at least **TWO (2) WEEKS** prior to trial. Any emergency requests for transcripts of testimony during trial must be approved by the Court. A glossary of any unusual words, names, or terms that may be used during trial will be provided to the official court reporter at least **ONE (1) WEEK** before trial.